

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO. 2005-11562RGS

FRED ROHRBACKER,

Plaintiff,

v.

**MODERN CONTINENTAL COMPANIES,
INC., HARBOR CRUISES, LLC, BOSTON
HARBOR CRUISES, a Joint Venture,
PROVINCETOWN PUBLIC PIER
CORPORATION, and PROVINCETOWN-
MACMILLAN REALTY TRUST,**

Defendants.

*Kenner, Engelberg,
Bratcher & Whalen*

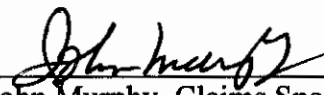
NOV 28 2005

CERTIFICATION L. R. 16.1 (D)(3)

I certify that on behalf of the insurer of Modern Continental Companies, Harbor Cruises, LLC and Boston Harbor Cruises, a Joint Venture (sic), I have conferred with counsel to establish a budget for the full litigation of the above-captioned matter, as well as a budget for the various alternatives.

Further, on behalf of the insurer of Modern Continental Companies, Harbor Cruises, LLC and Boston Harbor Cruises, a Joint Venture (sic), I have discussed with counsel the resolution of the litigation through the use of Alternative Dispute Resolution programs and need to develop further information before deciding whether the case is appropriate for settlement, ADR or trial.

Dated this 22nd day of November, 2005.



John Murphy, Claims Specialist
Zurich American Insurance Company
Insurer for above-referenced Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true copy of:

(X) Certification L. R. 16.1 (D)(3)

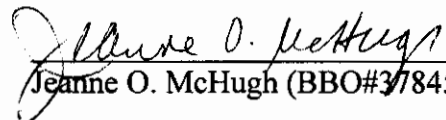
was served upon:

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by U.S. Mail, postage prepaid, on the 1st day of December, 2005.


Jeanne O. McHugh (BBO#378455)